

AGREEMENT BETWEEN

Health New Zealand | Te Whatu Ora

NZBN: 9429050678402

83 MOLESWORTH STREET
THORNDON
WELLINGTON
NEW ZEALAND
6011

CONTACT: <_DATA_ELEMENT_AGREE_DEPT_NAME/>

AND

<_MAIN_CONTRACTOR_companyName/>

NZBN: <_MAIN_CONTRACTOR_COMPANYFISCALCODE/>

<_MAIN_CONTRACTOR_COMPANYADDRESS/>

<_MAIN_CONTRACTOR_COMPANYCITY/>

<_MAIN_CONTRACTOR_COMPANYCOUNTRY/>

PH: <_MAIN_CONTRACTOR_COMPANYPHONE/>

CONTACT: <_DATA_ELEMENT_HNZ_PROVIDER_NAME/>

<_CONTRACT_TITLE/>

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SECTION A: SUMMARY

A1 AGREEMENT TO PURCHASE AND PROVIDE SERVICES

- A1.1 Health New Zealand | Te Whatu Ora (“**Health NZ**”) agrees to purchase, and the Provider agrees to provide services on the terms and conditions set out in the Agreement.
- A1.2 The Agreement means all documents included in Part 1 (this document, to be referred to as the Head Agreement), together with Parts 2 and 3 (the documents listed in the Agreement Summary below).
- A1.3 The Agreement sets out the entire agreement and understanding between the Parties and supersedes all prior oral or written agreements or arrangements relating to its subject matter.

A2 DURATION OF THE AGREEMENT, AND COMPONENTS OF THE AGREEMENT

- A2.1 Part 2 (General Terms) will apply for the period specified in the Agreement Summary below, or until terminated in accordance with the Agreement, subject to any rights to review, extend, vary, renew, or terminate any of these documents in accordance with the terms of this Agreement.
- A2.2 Each Service Schedule will apply for the period specified in Part 3 (Service Schedules), and shown in the Agreement Summary below, subject to any rights to review, extend, vary, renew, or terminate any of these documents in accordance with the terms of this Agreement.
- A2.3 The Agreement will automatically end upon the expiry of all Service Schedules in Part 3 (Service Schedules). Notwithstanding any end dates given in the tables at clause A5 (Agreement Summary), the terms and conditions of Part 2 (General Terms), including the right to terminate the Agreement or any part of the Agreement, will be deemed to continue as long as there are one or more active Service Schedules in Part 3 (Service Schedules).

A3 RELATIVE PRIORITIES OF THE COMPONENT PARTS OF THE AGREEMENT

- A3.1 In the event of any conflict between the terms of Section E (Provider-specific Terms and Conditions) and any other part of the Agreement, the terms of Section E will have priority.
- A3.2 In the event of any conflict between the terms of Part 2 (General Terms) and Part 3 (Service Schedules), the terms of Part 3 will have priority.

A4 ENFORCEABILITY OF THE AGREEMENT, AND ITS COMPONENT PARTS

- A4.1 If any provision in any of the documents listed at clause A5 (Agreement Summary) below is lawfully held to be illegal, unenforceable or invalid, that determination will not affect the remainder of the relevant document or the Agreement, which will remain in force.
- A4.2 If an entire document listed in the Agreement Summary below is lawfully held to be illegal, unenforceable or invalid, that determination will not affect any other documents listed in the Agreement Summary or the Agreement, which will remain in force.
- A4.3 If any provision in any of the documents or an entire document listed in the Agreement Summary below is held to be illegal, unenforceable or invalid, then Health NZ agrees to take such steps or make such modifications to the provision or document as are necessary to ensure that it is made legal, enforceable or valid. This is in addition to and not in substitution of Health NZ’s rights to give Notice of the terms and conditions on which Health NZ will make payments to the Provider pursuant to section 94 of the Pae Ora (Healthy Futures) Act 2022 or otherwise.

A4.4 The above provisions with respect to illegality, unenforceability or invalidity are not to affect any rights to validly terminate any of the documents in the Agreement Summary or the Agreement as a whole in accordance with the terms of the Agreement or otherwise.

A5 AGREEMENT SUMMARY

A5.1 This clause A5 (Agreement Summary) lists all documents included in the Agreement. The Agreement comes into effect from the Commencement Date identified at clause A5.2 below. This summary will be updated, by an agreement variation in accordance with clause B30 (Variations), whenever there is a change to this list.

A5.2 Part 1–Head Agreement

Document	Commencement Date
This document – Section A: Summary	<_START_DATE_DATE/>
Rights of Renewal	

Part 2–General Terms

Document	Document Version No.	Commencement Date	End Date, if specified
Section B: Standard Conditions of Contract	1.0	<_START_DATE_DATE/>	<_END_DATE_DATE/>
Section C: Provider Quality Specifications	1.0	<_START_DATE_DATE/>	<_END_DATE_DATE/>
Section D: Standard Information Specifications	1.0	<_START_DATE_DATE/>	<_END_DATE_DATE/>

Part 3–Service Schedules

Service Schedules	Reference/ Version No.	Commencement Date	End Date
Section E: Provider-specific Terms and Conditions	1.0	<_START_DATE_DAT E/>	<_END_DATE_DATE/ >
Section F: Service Specification	1.0	<_START_DATE_DAT E/>	<_END_DATE_DATE/ >

Signature Area

PART 2: GENERAL TERMS

This Part 2 contains all the General Terms of the Agreement.

Each of the documents in Part 2 (General Terms) form part of the Agreement between the Parties, as defined in the Agreement Summary or in a subsequent Variation to the Agreement Summary, as applicable.

Section B (Standard Conditions of Contract) sets out the conditions on which Health NZ's relationship with all providers is based.

Section C (Provider Quality Specifications ("**PQS**")) sets out the minimum quality of service required of all Health NZ providers. Where appropriate, the PQS also requires providers to meet the Ngā Paerewa Health and Disability Services Standard (NZS 8134:2021). The PQS applies to all Services provided under the Agreement. More detailed and service specific quality requirements are included in the Service Schedules.

Section D (Standard Information Specifications ("**SIS**")) sets out information management principles required of all providers. The SIS applies to all Services provided under the Agreement. More detailed and service specific information requirements are included in the Service Schedules.

SECTION B: STANDARD CONDITIONS OF CONTRACT

INTRODUCTION

B1 STANDARD CONDITIONS

- B1.1 Any agreement the Provider enters with Health NZ for the delivery of health or disability services will be deemed to include the following Standard Conditions.
- B1.2 If, however, any other terms in the Agreement or an agreement referred to in clause B1.1 directly conflict with these Standard Conditions, the other terms will have priority.
- B1.3 There is a glossary at the back of these Standard Conditions setting out definitions, interpretations and terms used.

B2 TE TIRITI O WAITANGI

- B2.1 Both Parties acknowledge the unique and special relationship between iwi Māori and the Crown under Te Tiriti o Waitangi.
- B2.2 Health NZ supports the Crown's intention to give effect to the principles of Te Tiriti o Waitangi and will be guided by the health sector principles set out in section 7 of the Pae Ora (Healthy Futures) Act 2022, which includes ensuring an equitable health sector that engages with Māori and that provides decision-making opportunities for Māori on matters that are important to Māori.

B3 RELATIONSHIP PRINCIPLES

- B3.1 The following values will guide the Parties in all their dealings with each other under the Agreement:
- a) Integrity – the Parties will act towards each other honestly and in good faith.
 - b) Good communication – the Parties will listen, talk and engage with each other openly and promptly including clear and timely written communication.
 - c) Enablement – the Parties will seek to enable each other to meet their respective objectives and commitments to achieve positive outcomes for communities and Service Users.
 - d) Trust and cooperation – the Parties will work in a cooperative and constructive manner recognising each other's viewpoints and respecting each other's differences.
 - e) Accountability – the Parties will each recognise the accountabilities that each Party has to their respective and mutual clients and stakeholders.
 - f) Innovation – the Parties will encourage new approaches and creative solutions to achieve positive outcomes for communities and Service Users.
 - g) Quality improvement – the Parties will work cooperatively with each other to achieve quality health and disability services with positive outcomes for Service Users.

B4 TERM

- B4.1 This Agreement commences on the Commencement Date and ends on the End Date, unless terminated earlier or renewed in accordance with its provisions.
- B4.2 Health NZ has the right to renew the Agreement for the number of times, and for the periods ("**Renewal Periods**") if any, set out in clause A5.2 by giving Notice to the Provider at least three months before the End Date ("**Renewal Notice**").

- B4.3 If Health NZ gives the Provider a Renewal Notice, the Agreement will renew on the day following the End Date and continues for the Renewal Period on the same terms, unless the Parties agree otherwise in a variation. If the Agreement is renewed, the last day of the applicable Renewal Period becomes the End Date.
- B4.4 If Health NZ does not give the Provider a Renewal Notice at least three months before the End Date, the Agreement will end on the End Date and not renew unless the Provider waives the three-month Notice period and Health NZ provides the Provider with a Renewal Notice before the End Date.
- B4.5 If Health NZ does not give the Provider any Renewal Notice under clauses B4.2 or B4.4 above, the Agreement will end on the End Date without renewal.
- B4.6 For the avoidance of doubt, given clause A2.3 (and noting that the following references to end dates include where the original end dates have been extended or varied):
- a) Where Part 3 (Service Schedules) contains one current Service Schedule, that Service Schedule's end date is the Agreement's End Date.
 - b) Where Part 3 (Service Schedules) contains two or more current Service Schedules with different end dates, the later of those end dates is the Agreement's End Date.
 - c) Where Part 3 (Service Schedules) contains two or more current Service Schedules all with the same end date, that end date is the Agreement's End Date.
- B4.7 Renewal of the Agreement under this clause B4 means:
- a) Where Part 3 (Service Schedules) contains one current Service Schedule, renewal of the Agreement means renewal of that Service Schedule together with Parts 1 (Head Agreement) and 2 (General Terms).
 - b) Where Part 3 (Service Schedules) contains two or more current Service Schedules with different end dates, renewal of the Agreement means renewal of the Service Schedule with the later end date of those end dates, together with Parts 1 (Head Agreement) and 2 (General Terms).
 - c) Where Part 3 (Service Schedules) contains two or more current Service Schedules all with the same end date, renewal of the Agreement means renewal of all those Service Schedules, together with Parts 1 (Head Agreement) and 2 (General Terms).

SERVICE PROVISION

B5 PROVISION OF SERVICES

- B5.1 The Provider must provide the Services as required under the Agreement and conduct its practice or business:
- a) in a prompt, efficient, professional and ethical manner
 - b) in accordance with all relevant published strategies issued under the Act
 - c) in accordance with all relevant Law
 - d) throughout the term of the Agreement.
- B5.2 Nothing in the Agreement gives the Provider an exclusive right to provide the Services.

B6 PAYMENTS

- B6.1 Health NZ will pay the Provider in accordance with the terms of the Agreement.
- B6.2 Health NZ may decrease the total price of the Agreement and any payments or portions of payments to the Provider to account for Service delivery failure, where:
- a) Health NZ considers, based on reasonable grounds, that the Provider has failed to meet one or more of its obligations under the Agreement (including providing less than the agreed level or capacity, and/or not meeting reporting requirements), and

- i) Health NZ has provided Notice to the Provider to rectify the issue,
 - ii) Health NZ has Consulted the Provider about the issue, and
 - iii) the Provider has failed to return the delivery of the Services to the required level or capacity within 10 Business Days (or such period as otherwise agreed between the Parties) from the date of such Notice, or
- b) the Provider is found to be in breach of the Agreement at the end of an Audit, or
 - c) the Provider's subcontractors do not allow Health NZ access in breach of clause B15.2(a).

B6.3 If clause B6.2 applies, payments may be withheld from the date of non-compliance until such time as compliance occurs.

B6.4 If:

- a) the Provider has not provided (or has only partially provided) the Services required under this Agreement
- b) the Provider has not complied (or has only partially complied) with its obligations under this Agreement
- c) the Provider has not fully expended the funding paid to it for the Services, for whatever reason, so that any portion of the funds remains unspent at the end of any financial year during the term of the Agreement ("**Underspend**")
- d) Health NZ has paid the Provider more than the amounts agreed under this Agreement ("**Overpayment**")

then:

- e) in relation to (a) and (b) above, excluding any disputed amounts, the Provider must repay as a debt due to Health NZ the amounts paid to the Provider for the Services (or a portion that Health NZ considers reasonable)
- f) in relation to (c) and (d) above, the Provider must repay as a debt due to Health NZ that Underspend, or Overpayment, on demand
- g) in relation to any amounts referred to in (e) and (f), the Provider may submit (at Health NZ's sole discretion) a proposal to Health NZ outlining how the Provider wishes to redirect or reinvest those amounts in the delivery of other public health services funded by Health NZ. Health NZ has no obligation to accept any proposal from the Provider under this clause to redirect or reinvest funds.

B6.5 If Health NZ agrees (including after negotiations with the Provider) to a proposal under clause B6.4(g), the terms and conditions of any such redirection or reinvestment of funds must be agreed to by written agreement between the Parties.

- a) If Health NZ declines any such proposal for redirection or reinvestment of funds, then the amounts referred to in clauses B6.4(e) and (f) remain payable by the Provider as debts due to Health NZ.

B6.6 Health NZ has the right, on giving the Provider prior Notice, to withhold, deduct or set off the amount of any Overpayment, Underspend or any other amount recoverable by Health NZ from the Provider under this Agreement (including for any non or partial Service delivery, or non or partial compliance with the Provider's obligations under this Agreement, excluding disputed amounts) from any future or other amounts owing to the Provider, or to seek recovery of that amount from the Provider as a debt due to Health NZ.

B7 COST AND VOLUME SHIFTING

B7.1 The Provider must not:

- a) act in a way that increases cost to another provider or Health NZ
- b) be party to any arrangement which results in Health NZ effectively having to pay more than once for the supply of the same Services or any component of them
- c) act in a way that shifts volumes relating to other services being provided separately by the Provider where such volumes have been specifically related to those services

- d) use payments made to the Provider under the Agreement for the delivery of the Services, to deliver any other services that are not funded under the Agreement, whether those services also have other payment sources.

B8 OTHER ARRANGEMENTS

- B8.1 The Provider must not enter any other contract or arrangement which might prejudice its ability to meet its obligations under the Agreement.
- B8.2 The Provider may (subject to its obligations under the Agreement) agree to provide Services for any other person.

B9 PRICE REVIEW

- B9.1 Health NZ may undertake a review of prices under this Agreement and reserves the right to increase prices at its sole discretion following any such review.
- B9.2 If Health NZ provides a price increase under the Agreement, Health NZ will give prior Notice to the Provider of the price increase including confirmation of the current price that is being increased.
- B9.3 The Provider must respond to the price increase Notice within 20 Business Days of receiving it.
 - a) If the Provider accepts the price increase, Health NZ may increase the price without any further action from the Provider.
 - b) If the Provider does not respond to Health NZ within 20 Business Days, the Provider will be deemed to have accepted the price increase.
 - c) If the Provider does not agree with the price increase, then the Provider may:
 - i) inform Health NZ that it declines the price increase. Unless otherwise agreed by Health NZ, the Provider will not be able to reclaim this price increase later
 - ii) inform Health NZ that it wishes to discuss an alternative price increase ("**Proposal**"), that the Provider must submit with its response to Health NZ, in which case:
 - A. the Parties will meet within 10 Business Days (unless the Parties agree otherwise) of the Provider's response, to discuss and negotiate the Proposal in good faith
 - B. if the Parties agree to the Proposal (or any variation of the Proposal), then Health NZ will increase the price accordingly without any further action from the Provider
 - C. if the Parties do not agree within 40 Business Days of the Provider's request to discuss its Proposal, Health NZ may confirm the original price increase and its effective date. If the Provider declines the price increase, it must inform Health NZ before the price increase takes effect.
- B9.4 If the Provider has declined the price increase, but receives or has received the price increase, then the Provider will repay Health NZ the Overpayment in accordance with clause B6.4.
- B9.5 If there is a price increase under this clause B9 (Price Review), it will take effect from the date specified by Health NZ following the applicable price review, without the need to vary this Agreement in terms of clause B30.1.

B10 RESPONSIBILITY FOR OTHERS

- B10.1 The Provider will be responsible for all acts and omissions of its employees, agents and subcontractors even if they are done without the Provider's knowledge or approval.

B11 SUBCONTRACTING

- B11.1 The Provider will ensure that the Services are provided using skilled and qualified personnel who can provide the Services to the standards required under this Agreement.

B11.2 Unless noted in clause B11.4, the Provider will not subcontract any of the Services or any part of them without Health NZ's prior written consent which may not be unreasonably withheld.

B11.3 If Health NZ provides consent under clause B11.2, the Provider agrees to comply with any reasonable conditions Health NZ imposes as part of the consent. and must also ensure that each subcontractor:

- a) is suitable and has the capacity and capability to deliver that aspect of the Services being subcontracted
- b) is fully aware of the Provider's obligations under this Agreement
- c) enters a written and signed contract and the terms of that contract are consistent with the Agreement
- d) complies with the terms of the Agreement.

B11.4 Health NZ approves the following subcontractors ("**Approved Subcontractors**"):

Organisation / Key Personnel	Responsibility
<_DATA_ELEMENT_HNZ_Approved_Subcontractors_LFA_SFA/>	<_DATA_ELEMENT_HNZ_Subcontractor_Responsibility_LFA_SFA/>

B11.5 The Provider must manage its agreement with each subcontractor in the best interests of Health NZ.

B12 TRANSFER AND ASSIGNMENT

B12.1 The Provider will not transfer, novate, or assign any part of its rights or obligations under the Agreement without Health NZ's prior written consent.

QUALITY ASSURANCE

B13 CONFLICTS OF INTEREST

B13.1 The Provider acknowledges and agrees that:

- a) as at the Commencement Date, it has no Conflict of Interest in entering into this Agreement (except any that it has disclosed to Health NZ)
- b) it has a continuing obligation during the term of the Agreement to disclose all Conflicts of Interest (actual, potential, and perceived) that the Provider is or becomes aware of and will do so immediately on becoming aware of that Conflict of Interest.

B13.2 If the Provider identifies a Conflict of Interest, the Provider will cooperate with Health NZ and will meet any conditions or restrictions imposed by Health NZ to manage, mitigate or eliminate any such actual, potential, or perceived, Conflicts of Interest.

B14 QUALITY OF SERVICES

B14.1 The Provider must comply with the quality requirements set out in the Agreement.

B15 AUDITING

B15.1 Appointment of Auditors.

- a) Health NZ may appoint people to Audit, on its behalf, in relation to any of the matters contained in the Agreement.
- b) Health NZ will give the Provider prior Notice of the names of the people it has appointed.
- c) The Provider must raise any objection to any of the named auditors within five Business Days. Health NZ will consider the, objection and may appoint an alternative auditor if Health NZ considers (at its sole discretion) the objection valid or appropriate. The Provider may not object where an auditor is suitably qualified and has no demonstrable Conflict of Interest. However, the Provider may object based on some other good reason.

- d) Those people appointed to carry out the Audit may take copies of any parts of the Records.

B15.2 Access for Audit.

- a) The Provider and its subcontractors will cooperate with Health NZ fully and allow Health NZ or its authorised agents, access to:
 - i) the Provider's Records
 - ii) the Provider's premises
 - iii) all premises where the Provider's Records are kept
 - iv) Service Users and their families
 - v) staff, subcontractors or other personnel used by the Provider in providing the Services, for the purposes of and while carrying out any Audit.
- b) Health NZ will ensure that its exercise of access under this clause B15 (Auditing) will not unreasonably disrupt the provision of the Services to Service Users.

B15.3 Notice of Audit.

- a) Health NZ will give the Provider prior Notice of any on-site Audit as agreed in any Provider-specific Audit protocols.
- b) If Health NZ believes that delay will unnecessarily prejudice the interests of any person, Health NZ may give Notice to the Provider of its intention to carry out an on-site Audit within 24 hours. If Health NZ reasonably suspects fraud, it may carry out an on-site Audit with no prior Notice.

B15.4 Times for Audit.

- a) Subject to clause B15.3(b), a site visit to the Provider as part of an Audit may be carried out at any time during Business Hours and at any other reasonable times.
- b) The Provider must ensure that the people appointed by Health NZ to carry out the Audit have access, during the hours they are entitled to Audit.

B15.5 Audit Process.

- a) Subject to the limitations in clause B15.7 in carrying out any Audit, Health NZ may:
 - i) access Confidential Information about any Service User
 - ii) observe the provision or delivery of the Services
 - iii) interview or follow up Service Users and/or their families
 - iv) interview or follow up any staff, Approved Subcontractors or other personnel used by the Provider in providing the Services.

B15.6 Financial Audit.

- a) Health NZ may inspect the Provider's accounting system or Record of costs related to the delivery of Services, but only for the purpose of supporting the Provider and mitigating risks to Service delivery. Health NZ will not inspect the Provider's system for any other purpose.
- b) Health NZ may appoint, as set out in the Agreement, an auditor to Audit:
 - i) the correctness of the information the Provider gives to Health NZ
 - ii) the Provider's calculations of the cost of supplying the Services
 - iii) the Provider's financial position.
- c) The auditor may advise Health NZ if they:
 - i) consider that the Provider's financial position may prejudice its ability to carry out its obligations under the Agreement
 - ii) identify any Underspend, Overpayment, or potential set off.

- d) Health NZ retains the right to Audit after the Agreement ends or is terminated but only to the extent that it is relevant to the period during which the Agreement exists.

B15.7 Limitation of Health NZ's Rights.

- a) Health NZ's rights and the rights of others to:
 - i) access Confidential Information about any Service User
 - ii) observe the provisions or delivery of the Services
 - iii) interview or follow up Service Users and/or their families
 - iv) must be either authorised by statute or by a code of practice under the Privacy Act 2020 covering Health Information held by health agencies or by the informed consent of each Service User concerned. The consents will normally be in writing.

B16 INSURANCE

B16.1 The Provider must immediately take out adequate comprehensive insurance covering its practice or business.

B16.2 The Provider must make sure that all the insurance cover always remains in force for the term of the Agreement or so long thereafter as required for the purposes of the Agreement.

B17 HEALTH NZ'S LIABILITY

B17.1 Except to the extent that the Parties agree otherwise, Health NZ will not be liable to the Provider for any claims, damages, penalties or losses (including costs) which the Provider incurs.

B18 INDEMNITY

B18.1 The Provider will indemnify Health NZ against all claims, damages, penalties or losses (including costs) which Health NZ incurs as the result of:

- a) the Provider failing to comply with its obligations under the Agreement
- b) any act or omission by the Provider or any person for whom the Provider is responsible for.

B19 COMPLAINTS AND COMPLAINTS BODY

B19.1 The Provider must comply with any standards for the health sector relating to complaints.

B19.2 If there is no such standard applicable to the Provider, then the Provider must implement a complaints procedure in accordance with the terms of the Agreement.

B19.3 The Provider must at all reasonable times cooperate with any Complaints Body and comply with its reasonable requirements.

B19.4 Health NZ will advise a Complaints Body of any complaints it receives about the Provider if Health NZ believes it is appropriate to do so.

B20 WARRANTIES

B20.1 The Provider warrants to Health NZ that at all times:

- a) all material information supplied by it or on its behalf to Health NZ is true, complete and correct
- b) it has the power and legal authority to enter and perform the obligations under and in respect of this Agreement and has taken all necessary corporate action to authorise the execution of this Agreement.
 - i) Health NZ may however waive, with or without conditions, all or any part of this clause B20.1(b).
 - ii) If the condition in clause B20.1(b) is not satisfied or waived by Health NZ by the Commencement Date or any later date, Health NZ may avoid the Agreement by Notice to the Provider.

- iii) it is not aware of anything which might prevent the Provider from carrying out its obligations under the Agreement.

B20.2 The Provider confirms that:

- a) the above warranties are a continuing obligation (deemed to be repeated daily) during the term of the Agreement including all extensions and renewals
- b) it will advise Health NZ immediately if, at any time, any of the warranties is untrue.

B21 ENSURING HEALTH AND SAFETY

B21.1 In performing its obligations under this Agreement, the Provider must:

- a) comply with all Health and Safety Legislation and H&S Standards
- b) so far as is reasonably practicable, ensure the health and safety of:
 - i) the Provider's Workers
 - ii) the Service User
 - iii) any others who may be put at risk by the Services
- c) so far as is reasonably practicable, ensure that no act or omission:
 - i) creates a hazard, which can cause injury or death to any person
 - ii) is a breach of, or causes the breach of, any duty or obligation under the Health and Safety Legislation
 - iii) gives rise to, or is likely to give rise to, the issue of any notice or enforcement action under any Health and Safety Legislation against Health NZ
- d) advise Health NZ in writing as soon as possible:
 - i) of all notifiable injuries, illnesses and events (as defined in the HSW Act) relating to the Services
 - ii) of any contact by any regulatory agency in relation to any health or safety matter relating to the Services (unless prohibited by Law from so advising Health NZ)
 - iii) if the Provider becomes aware that it is or may be in breach, or is likely to be in breach, of the requirements in this clause B21 (Ensuring Health and Safety)
- e) comply with Health NZ's reasonable instructions in relation to any matter referred to in clause B21.1(d).

B21.2 Without limiting this clause B21 (Ensuring Health and Safety) the Provider acknowledges and agrees that it is responsible for managing the risks arising from the performance of the Services and that Health NZ is reliant on the Provider's expertise and ability to influence and control the safe performance of the Services in this regard.

B21.3 The Provider will comply with Health NZ's reasonable instructions in relation to Health NZ monitoring, Auditing or otherwise seeking to verify the Provider's compliance with its health and safety obligations in relation to the Services and this Agreement.

B21.4 The Provider must hold and maintain all necessary health and safety accreditations to deliver the Services.

B21.5 The Provider must have, maintain and review a health and safety policy, processes and procedures to identify, eliminate or minimise health and safety risks in relation to the Services so far as is reasonably practicable.

B21.6 The Provider must have and maintain health and safety risk management plans relating to the delivery of the Services that at a minimum:

- a) identify health and safety risks arising from the Services
- b) establish controls to eliminate or minimise those health and safety risks so far as reasonably is practicable

- c) ensure all workplaces, fixtures, fittings and plant (as defined in the HSW Act) are, so far as is reasonably practicable, without risk to health and safety
- d) describe the duties that overlap with other PCBUs (including Health NZ) and ensure there are arrangements to consult, cooperate and coordinate with those other PCBUs to eliminate or minimise health and safety risks so far as is reasonably practicable, in accordance with the Health and Safety Legislation.

B21.7 The Provider must ensure that:

- a) its staff are aware of the health and safety obligations in this Agreement and the content and intent of the documents described in B21.5
- b) its staff are adequately trained and supervised in the safe use of all equipment, machinery, tools, processes, substances and protective clothing that they may be required to use in relation to the delivery of the Services
- c) its staff that provide the Services are adequately trained in compliance with all standards, including the H&S Standards, codes of practice and all applicable Law.

B21.8 Where the Provider and Health NZ have duties imposed by the Health and Safety Legislation in relation to the same matter (i.e. duties that overlap), the Parties must Consult, cooperate and coordinate with each other to eliminate or minimise health and safety risks so far as is reasonably practicable.

B21.9 The Provider must maintain systems to enable all Workers to report health and safety risks, and notifiable injuries, illnesses and events (as defined in the HSW Act) relating to the Services to the Provider and have procedures in place to manage reported risks, and notifiable injuries, illnesses and events, including reporting to Health NZ as required by this Agreement.

B21.10 The Provider must report to Health NZ on matters about health and safety in connection with the Provider carrying out its obligations under this Agreement, at such times and in such format as is required by Health NZ.

B21.11 The Provider must promptly remove from any site any employee or agent of the Provider, performing the Services, as Health NZ may reasonably require for health and safety reasons.

B21.12 Failure by the Provider to comply with any of its obligations contained in this clause B21 (Ensuring Health and Safety) may constitute a material breach and entitle Health NZ to terminate this Agreement.

B21.13 To the extent permitted by Law, the Provider indemnifies Health NZ from all claims incurred or suffered by Health NZ under the HSW Act (excluding any liability to pay a fine or infringement fee) arising out of a breach by the Provider of any of the obligations under this Agreement.

B22 WHERE THERE ARE APPROVED SUBCONTRACTORS

B22.1 In performing its obligations under this Agreement, the Provider must procure that the Approved Subcontractor:

- a) complies with all Health and Safety Legislation and H&S Standards
- b) so far as is reasonably practicable, ensures the health and safety of
 - i) the Approved Subcontractor's Workers
 - ii) the Provider's Workers
 - iii) the Service Users
 - iv) any others who may be put at risk by the Services.
- c) so far as is reasonably practicable, ensure that no act or omission gives rise to, or is likely to give rise to, the issue of any notice or enforcement action under any Health and Safety Legislation (including the HSW Act) against Health NZ
- d) advise the Provider in writing as soon as possible of:
 - i) all notifiable injuries, illnesses and events (as defined in the HSW Act) relating to the Services

- ii) any contact by any regulatory agency in relation to any health or safety matter relating to the Services (unless prohibited by Law from so advising Health NZ)
- e) comply with Health NZ's reasonable instructions in relation to any matter referred to in clause B22.1(d).

B22.2 The Provider must perform checks to confirm the Approved Subcontractor has appropriate health and safety accreditation and plans in place that protect all Workers or others who may be put at risk by the Services. The Provider must also ensure that it reviews those health and safety accreditation and plans at appropriate intervals. At a minimum, the Provider must ensure that it reviews the health and safety accreditation and plans of the Approved Subcontractor on at least an annual basis and following a notifiable injury, illness or event (as defined in the HSW Act).

B22.3 If delivery of the Services occurs on a Health NZ Site:

- a) the Provider will observe and meet all relevant health and safety requirements, any statutory requirements, and any code of conduct or other policies given to the Provider by Health NZ, including those policies relating to health and safety, fire and emergency, and security.
- b) the Provider will comply with all reasonable directions of Health NZ in relation to access and use of the Health NZ Site whether contained in this document or any other in relation to the provision of the services e.g. a lease.

B22.4 Health NZ may deny access to a Health NZ Site to the Provider and any of the Provider's staff who do not meet the requirements of clauses B21 (Ensuring Health and Safety) to B23 (Use of Health NZ Property and Sites).

B23 USE OF HEALTH NZ PROPERTY AND SITES

B23.1 If the Provider has access to any Health NZ Property under or in connection with this Agreement, the Provider must:

- a) use Health NZ Property:
 - i) for the sole purpose of complying with its obligations under the Agreement and for no other purpose
 - ii) only to the extent necessary to comply with its obligations under the Agreement
- b) comply with all directions regarding the use of Health NZ Property given by Health NZ from time to time
- c) return all Health NZ Property to Health NZ on the earlier of:
 - i) completion of the Services relating to that Health NZ Property
 - ii) receipt of Health NZ's request for it to be returned
 - iii) termination or expiry of the Agreement.

B23.2 Health NZ may provide the Provider with access to Health NZ Sites solely for the purpose of enabling, and to the extent necessary to enable, the Provider to comply with its obligations under the Agreement.

B23.3 The Provider must not use or access Health NZ Sites or any other Health NZ premises for any other purpose without Health NZ's prior written consent.

B24 INTELLECTUAL PROPERTY

B24.1 The purpose of this clause B24 (Intellectual Property) is to give Health NZ the rights it needs to use and own the results of the Services, without the need for further consent. In this clause B24 (Intellectual Property):

- a) **Information:** means any information or material owned by Health NZ or that the Provider obtains from Health NZ, or the Provider otherwise acquire or produce directly in connection with the provision of the Services.

- B24.2 Each Party retains ownership of its Pre-Existing Intellectual Property.
- B24.3 The Provider grants Health NZ a perpetual, non-exclusive, worldwide, transferable, irrevocable and royalty-free licence to use the Provider's Intellectual Property Rights, but only to the extent that is necessary for Health NZ to use and own the results of the Services.
- B24.4 In respect of any Health Education Resources and any other copyright works (as defined in the Copyright Act 1994) which the Provider produces or arranges to be produced directly in connection with the Services, and subject to the other provisions of this clause B24 (Intellectual Property), the Provider assigns to Health NZ all present and future copyright in those copyright works. The Provider irrevocably waives its Author's Rights in them.
- B24.5 The Provider also grants Health NZ (or must procure the grant to Health NZ of) a perpetual, non-exclusive, worldwide, transferable, irrevocable, sub-licensable and royalty-free licence to use, for any purpose, all Intellectual Property Rights in the Services (if such rights are not owned by Health NZ) for Health NZ to:
- a) receive the full benefit of the results of the Services
 - b) use, copy, modify and distribute any results of the Services.
- B24.6 Nothing in this Agreement gives Health NZ ownership of the Provider's ngā mea tikanga me ngā taonga Māori.
- B24.7 The Provider warrants that:
- a) the creation, possession, or use of the Information, by Health NZ the assignment and license of any rights to Health NZ under this Agreement, and the Provider's performance of the Services. do not and will not infringe the rights of any person
 - b) it has, or will obtain, all necessary licences and consents required to perform the Services and its obligations under this Agreement (before the Provider starts to perform them)
- B24.8 Health NZ grants the Provider a non-exclusive licence to use Health NZ's Intellectual Property Rights, for the purpose of the Provider performing its obligations under this Agreement.
- B24.9 Health NZ warrants that the use or possession by the Provider of any material supplied by Health NZ to the Provider for the purpose of enabling the Provider to fulfil its obligations under this Agreement does not and will not infringe the Intellectual Property Rights of any person.
- B24.10 New Intellectual Property Rights will be owned by Health NZ as those rights arise. The Provider agrees to do all things necessary to give effect to this clause B24.10.
- B24.11 If any claim is made against Health NZ that its possession or use of the Information infringes the Intellectual Property Rights of any person, the Provider will, at the Provider's cost, provide Health NZ with all reasonable assistance to defend the claim.
- B24.12 When this Agreement ends or is terminated (for whatever reason) the Provider will assist Health NZ to transfer the Information within the Provider's possession or control to Health NZ in a manner that preserves the Information and its integrity. The Provider must ensure that the Information that is transferred is of sufficient quality, clarity and completeness to enable Health NZ to understand it and use it for Health NZ's purposes. If this Agreement is lawfully terminated due to a breach by a Party, then the Party in breach will pay the costs of complying with this transfer clause. Otherwise, these costs will be shared equally.
- B24.13 Neither Party will use the other Party's logo, trademark, brand or insignia without first obtaining that Party's prior written consent.

DEALING WITH PROBLEMS

B25 NOTIFICATION OF PROBLEMS

- B25.1 The Provider must advise Health NZ promptly in writing of any:
- a) changes

- b) problems
- c) significant risks
- d) significant issues, which materially reduce or affect the Provider's ability to provide the Services, or are most likely to do so, including those relating to:
 - i) any premises used by the Provider
 - ii) any equipment the Provider is using
 - iii) the Provider's key personnel

B25.2 The Provider must advise Health NZ promptly in writing:

- a) if the Provider materially fails to comply with any of its obligations under the Agreement
- b) of any serious complaints or disputes which directly or indirectly relate to the provision of the Services
- c) of any issues concerning the Services that might have high media or public interest.

B25.3 The Parties must discuss with each other possible ways of remedying the matters notified. Health NZ's discussion or attempted discussions will not however limit any of its rights under the Agreement.

B25.4 The Provider must have in place realistic and reasonable risk management processes and contingency plans to enable the Provider to continue to provide the Services on the occurrence of any of the matters in this clause B25 (Notification of Problems). For the avoidance of doubt, the Provider is responsible for:

- a) ensuring the continuity of care for existing patients, the management of increased demand for the Services (including the provision of surge capacity), and helping enable the recovery of Services (including business continuity)
- b) preparing incident and emergency management plans that are integrated across the health sector and are aligned with Health NZ plans, the plans of other emergency services, and Civil Defence Emergency Management Group plans
- c) integrating their own planning and response with public health planning and response
- d) supporting Health NZ and Civil Defence Emergency Management Groups as required
- e) contributing to emergency management planning led by the Ministry of Health and coordinating via Health NZ Emergency Operations Centres.

B26 UNCONTROLLABLE EVENTS

B26.1 Neither Party will be in default or liable to the other for any failure to perform its obligations under the Agreement to the extent that the default or failure is caused by an Uncontrollable Event.

B26.2 A Party who wishes to claim that it is not in default or liable for any failure because of an Uncontrollable Event must give Notice to the other Party as soon as reasonably possible and take all reasonable steps to remedy or reduce the Uncontrollable Event.

B26.3 The Notice must include:

- a) the nature of the circumstances that have led to the Uncontrollable Event
- b) the cause and extent of that Party's inability to fulfil their obligations under this Agreement
- c) the expected length of that non-performance
- d) what steps are being taken to minimise the impact of the Uncontrollable Event on that Party's performance of the Agreement.

B26.4 Neither Party is obliged to settle any strike, lock out or other industrial disturbance.

B26.5 Performance of any obligation affected by an Uncontrollable Event must be resumed as soon as reasonably possible after the Uncontrollable Event ends or its impact is reduced.

- B26.6 If the Provider is unable to provide the Services as the result of an Uncontrollable Event, Health NZ may either:
- a) work closely with the Provider to:
 - i) agree to the level or volume of Services the Provider can provide during the Uncontrollable Event
 - ii) revise the reporting requirements, which will only apply during the Uncontrollable Event
 - iii) consider any other factors relevant to the Uncontrollable Event, which may assist the Provider in providing the Services during the Uncontrollable Event
 - b) consider alternative arrangements suitable to Health NZ for the supply of the Services during the Uncontrollable Event.
- B26.7 If either Party is unable to perform an obligation under the Agreement for 60 Business Days due to an Uncontrollable Event, the Parties must first Consult and decide to what extent if any the Agreement can be varied and to continue.
- B26.8 If the Parties cannot agree that the Agreement may continue, then either Party may terminate the Agreement after giving at least 10 Business Days' prior Notice.

B27 HEALTH NZ MAY REMEDY FAILURE

- B27.1 If the Provider fails to meet its obligations under the Agreement, or if Health NZ believes, based on reasonable grounds, that the Provider is at risk of failing, Health NZ may carry out those obligations on the Provider's behalf. The Provider will bear all associated costs and risks.
- B27.2 Health NZ may do this without giving Notice to the Provider where Health NZ considers that the circumstances reasonably require such action. Otherwise, Health NZ will give the Provider five Business Days' Notice of its intention to act.
- B27.3 All costs that Health NZ incurs in acting pursuant to this clause B27 (Health NZ May Remedy the Provider's Failure), must be paid by the Provider to Health NZ on demand. Alternatively, Health NZ may deduct these costs from any amounts which Health NZ owes to the Provider.

B28 PUBLIC STATEMENTS, ISSUES AND ADVERTISING

- B28.1 Both Parties agree that:
- a) neither Party will directly or indirectly criticise the other publicly, without first fully discussing the matters of concern with the other. The discussion must be carried out in good faith and in a cooperative and constructive manner
 - b) nothing in this clause prevents the Provider from discussing any matters of concern with its staff, subcontractors, agents or advisors
 - c) nothing in this clause prevents the Provider from discussing any matters of concern with Health NZ staff, subcontractors, agents, advisers or persons to whom Health NZ are responsible
 - d) if they are unable to resolve any differences between them, then those differences may be considered a dispute and may be referred by either Party to the dispute resolution process set out in clause B29 (Dispute Resolution).
- B28.2 The Provider may use Health NZ's name or logo only with Health NZ's prior written consent.

B29 DISPUTE RESOLUTION

- B29.1 If either Party has any dispute with the other in connection with the Agreement, then:
- a) both Parties will use their best endeavours to settle the dispute by agreement between them. The Parties must always act in good faith and cooperate with each other to resolve any disputes
 - b) if the dispute is not settled by agreement within 20 Business Days then, unless both Parties agree otherwise:

- i) the Party raising the dispute must promptly give full written particulars of the dispute to the other Party
- ii) a mediation will be conducted by a mediator chosen by the Parties or, if the Parties cannot agree, by the Resolution Institute. Mediation shall be on the terms of the Resolution Institute Mediation Rules. Mediation will be conducted at a fee to be agreed by both Parties, and if the Parties cannot agree, at a fee determined by the Resolution Institute.
- c) if the dispute is not resolved by mediation, the Parties may, if they agree, refer the dispute to a single arbitrator as follows:
 - i) the single arbitrator will be chosen by the Parties or, if they cannot agree, by the Resolution Institute
 - ii) the arbitration will be conducted in accordance with the Rules in Schedules 1 and 2 of the Arbitration Act 1996
- d) neither Party will initiate any litigation during the dispute resolution process outlined in this clause B29.1 unless proceedings are necessary for preserving the Party's rights
- e) the Parties will continue to comply with all their obligations under the Agreement until the dispute is resolved but payments may be withheld to the extent that they are disputed.

B29.2 Clause B29.1 will not, however, apply to any dispute:

- a) concerning any renegotiation of any part of the Agreement
- b) as to whether any person is an Eligible Person
- c) directly or indirectly arising from any matter which has been referred to a Complaints Body unless the Complaints Body directs the matter to be resolved in accordance with clause B29.1.

B30 VARIATIONS

B30.1 Unless otherwise specified in the Agreement, the Agreement may only be varied by written agreement signed by the Parties.

B30.2 Where the Agreement is for a term exceeding one year, the Parties agree that the Agreement shall be reviewed annually.

B30.3 Variation on requirement by the Crown.

- a) Health NZ may, by Notice to the Provider, require the Provider to vary the Agreement to comply with any requirement imposed on Health NZ by the Crown.
- b) Health NZ will give the Provider as much notice of the requirement and details of the proposed change as possible, to the extent that Health NZ is able to do so.
- c) Both Parties must Consult and decide to what extent if any the Agreement can be varied and then continue on that basis.
- d) If the Parties do not agree within 40 Business Days, then either Party may terminate the Agreement after giving at least 20 Business Days' prior Notice.
- e) The Provider must continue to comply with its obligations under the existing Agreement until any variation of it takes effect.

B30.4 The Agreement will be varied in the event of a disaster, local or national epidemic, emergency or war in accordance with Health NZ's requirements but this clause is subject to clause B26 (Uncontrollable Events).

TERMINATING THE AGREEMENT

B31 TERMINATION FOR CONVENIENCE

- B31.1 Either Party may terminate this Agreement before its End Date, at any time, by giving the other Party not less than six months' Notice and specifying the effective date of termination ("**Termination Date**").
- B31.2 If the Agreement is terminated under this clause, then, subject to all other clauses of this Agreement, Health NZ will pay the Provider for all Services performed up to the Termination Date irrespective of which Party terminates the Agreement.
- B31.3 Under this clause B31 (Termination for Convenience), both Parties agree to:
- a) minimise any losses, costs or expenses arising from the termination of the Agreement
 - b) if applicable, help and cooperate to facilitate the closure or transfer of the Services. In this case, if requested by Health NZ, the Provider agrees:
 - i) to provide additional assistance for a period of not more than six months past the Termination Date (unless otherwise agreed to by the Parties) to support any replacement provider to provide the Services
 - ii) to provide such additional assistance in accordance with an exit plan agreed between the Parties
 - iii) where there is no agreed exit plan, Health NZ agrees to pay the Provider for such additional assistance at a reasonable fee agreed between them based on the fees and expenses stated in the Agreement.
- B31.4 Terminating the Agreement will not affect the rights or obligations of either Party which:
- a) arose before the Agreement was terminated
 - b) relate to any breach or failure to perform any obligation under the Agreement that arose before the Agreement was terminated.
- B31.5 Terminating the Agreement will not affect the operation of any clauses in the Agreement which are expressed or implied to have effect after the Agreement is terminated or ends.

B32 NOTICE OF FUTURE INTENTIONS

- B32.1 The Provider must give Health NZ a minimum of three months' Notice before the End Date if:
- a) the Provider does not wish to enter into a new agreement with Health NZ when the Agreement ends
 - b) the Provider wishes to enter into a new agreement with Health NZ when the Agreement ends but on materially different terms.
- B32.2 This clause B32 (Notice of Future Intentions) does not mean that Health NZ must enter into a contract with the Provider when the Agreement ends or that Health NZ must exercise any right of renewal that it might have.
- B32.3 The Provider must discuss its intentions with Health NZ before giving Notice under clause B32.1.

B33 HEALTH NZ'S RIGHT TO TERMINATE THE AGREEMENT

- B33.1 Health NZ may terminate the Agreement immediately by Notice to the Provider on the occurrence of any of the following events:
- a) Health NZ has good reason to believe that the Provider is unable or will soon become unable to carry out all its material obligations under the Agreement. Health NZ must, however, Consult the Provider before terminating the Agreement for this reason.
 - b) If Health NZ believes the health or safety of any person or Population Served is at risk, Health NZ may suspend the Provider's provision of the Services while the Parties Consult.
 - c) The Provider has failed to carry out any of its obligations under the Agreement and:

- i) the failure is material
 - ii) the failure cannot be remedied.
- d) The Provider is insolvent or is adjudged bankrupt, or the Provider is more than one person, and any of them is insolvent or adjudged bankrupt.
- e) The Provider is a company, a charitable trust, or incorporated society, and the Provider is placed in receivership or liquidation, or goes into voluntary liquidation.
- f) The Provider has failed to carry out any of its obligations under the Agreement and the failure can be remedied by the Provider, but the Provider fails to do so within 20 Business Days of receiving Notice of the default from Health NZ.
- g) After 20 Business Days of the Provider receiving the default Notice referred to in clause B33.1(f), so long as the obligation still has not been met, Health NZ may, instead of terminating the Agreement:
- i) at any time vary or withdraw from coverage by this Agreement any of the Services in respect of which the Provider has not met its obligation, either immediately or at any later date
 - ii) cease payment for any of the Services from the date of withdrawal.

B33.2 The Provider has the same right and must follow the same procedure if Health NZ has not met any obligation, and the Provider wishes to vary or withdraw any of the Services.

B33.3 Any dispute regarding the withdrawal or variation of any of the Services under clause B33.1(g) must be resolved under clause B29 (Dispute Resolution).

B33.4 Nothing in clause B33.1 affects any other rights Health NZ may have against the Provider in Law or in equity.

B34 THE PROVIDER'S RIGHT TO TERMINATE THE AGREEMENT

B34.1 If Health NZ defaults on any payments, which it is not entitled by the Agreement to withhold, and Health NZ fails to remedy the default within 15 Business Days of the Provider giving Health NZ Notice of the default, the Provider may do any one or more of the following:

- a) Terminate the Agreement before its End Date.
- b) Seek specific performance of the Agreement.

B35 EFFECT OF TERMINATING THE AGREEMENT

B35.1 Terminating this Agreement will not affect:

- a) the rights or obligations of either Party which have arisen before the Agreement is terminated
- b) the rights or obligations of either Party that relate to any breach or failure to perform any obligation under the Agreement that arise before the Agreement is terminated
- c) the operation of any clauses in the Agreement which are expressed or implied to have effect after the Agreement is terminated or ends.

GENERAL

B36 CONFIDENTIALITY

B36.1 Except to the extent that these Standard Conditions provide otherwise, neither Party may disclose any Confidential Information to any other person. Both Parties acknowledge that the Agreement, but not any Confidential Information, may be published publicly by Health NZ through any media including electronically via the internet.

B36.2 Neither Party will disclose to any third party any information which will identify a natural person (as defined in the Privacy Act 2020):

- a) without that person's informed consent
- b) unless authorised by statute, or by a Code of Practice under the Privacy Act 2020 covering Health Information held by Health Agencies.

B36.3 Clause B36.1 does not apply:

- a) to terms or information which are or become available to the public except as the result of a breach of clause B36.1
- b) to information which either Party is required by Law to supply to any person but only to the extent that the Law requires
- c) to terms or information disclosed to the professional advisers of either Party or to those involved in a Service User's clinical or care management where disclosure is reasonably necessary for the management
- d) to information which the Provider is required by the Agreement to disclose or forward to any Person.

B36.4 Nothing in clause B36.1 will prevent Health NZ from disclosing any terms or information in accordance with this Agreement, or by direction or requirement from the Minister or Ministry of Health.

B36.5 Each Party will ensure all Confidential Information is kept secure and is subject to appropriate security and user authorisation procedures and audits.

B37 PROTECTION OF PERSONAL INFORMATION

B37.1 The Provider will comply with the Privacy Laws in connection with all Personal Information relating to Service Users. This includes:

- a) accessing, collecting, using, and disclosing Personal Information only where the access, collection, use or disclosure is permitted or authorised by this Agreement or by the Privacy Laws
- b) ensuring that any Personal Information that the Provider has in its possession or control for the purposes of providing the Services in connection with this Agreement:
 - i) is protected by reasonable security safeguards against loss of, or unauthorised or unlawful, modification, disclosure, destruction or other misuse
 - ii) is not unlawfully transmitted, transferred, exported, processed or sorted by the Provider or a third-party service provider
 - iii) is only accessed by authorised personnel who need to access it to carry out their roles in the performance of the Provider's obligations under this Agreement and who have been appropriately trained on the obligations under the Privacy Laws
 - iv) is not accessed, used or disclosed for any reason other than for the provision of the Services
 - v) is not accessed by, transferred or disclosed to a third party (unless required by Law) without Health NZ's written consent (which Health NZ, in its discretion, may make subject to conditions)
- c) appointing a Privacy Officer.
 - i) The Provider will notify Health NZ from time to time of the name and contact details of the Privacy Officer that is responsible for monitoring and ensuring the Provider's compliance with the Privacy Laws and the privacy obligations in this Agreement.
- d) having a privacy policy which complies with the Privacy Laws that includes:
 - i) measures to mitigate the occurrence of a Privacy Breach that follow good practice at the level expected from a leading supplier in the relevant profession or industry
 - ii) what to do if there is an actual or suspected Privacy Breach or near miss including procedures to notify Health NZ in accordance with clause B38.2 and, when required, the Privacy Commissioner and any affected individual(s)

- e) not doing anything or omitting to do anything with the Personal Information accessible by the Provider in the performance of the Services in connection with this Agreement that would cause Health NZ to breach Privacy Laws
- f) complying with any reasonable policies or directions from Health NZ relating to the Provider's access, collection, use or disclosure of Personal Information that the Provider obtains under or in connection with this Agreement
- g) providing all information and assistance reasonably requested by Health NZ to assist Health NZ to comply with the obligations under Privacy Laws.

B37.2 In addition to clause B37.1, the Parties acknowledge and agree:

- a) that they must first enter into, and both sign a written variation to this Agreement that includes a Health NZ Information Sharing Schedule before Health NZ may give the Provider access to or use of any Personal Information or Health Information in connection with the Services
- b) that, except to the extent required by Law or as set out in a Health NZ Information Sharing Schedule entered into and agreed in accordance with clause B37.2(a), the Provider must not disclose any Personal Information or Health Information received or obtained in connection with the Services, to any other party or person without Health NZ's prior and express written consent
- c) that a breach of this clause B37.2 by the Provider constitutes a material breach and entitles Health NZ to, without prejudice to any other available remedies, immediately terminate this Agreement by giving Notice of such termination to the Provider.

B38 SECURITY BREACHES

B38.1 Without limiting the Provider's obligations in this Agreement, the Provider must take all reasonable steps to prevent a Security Breach (which includes any Privacy Breach).

B38.2 In the event of a Security Breach or suspected Security Breach, the Provider must promptly (and in no event later than 24 hours of the Provider becoming aware of the Security Breach or suspected Security Breach) provide Notice of the incident to Health NZ. The notification must include:

- a) a detailed description of the Security Breach
- b) the type of information that was the subject of the Security Breach
- c) the identity of each affected individual
- d) a description of the likely consequences of the Security Breach
- e) a description of the measures taken or proposed to be taken by the Provider to address the Security Breach, including measures to mitigate its effects.

The Provider must notify Health NZ by email (copy to the Health NZ Privacy team at: h.nzprivacy@tewhatuora.govt.nz) and by phone call.

B38.3 The Provider must also:

- a) promptly take such measures and actions immediately as are appropriate to contain and stop the Security Breach, and remedy or mitigate the effects of the Security Breach (including the implementation of contingency plans, the recovery and restoration of data and other measures and actions reasonably directed by Health NZ) and prevent its reoccurrence
- b) promptly take such steps as are reasonably available to it to identify the person or persons involved in the Security Breach
- c) except to the extent required by Law, not disclose any information about the Security Breach or suspected Security Breach without Health NZ's consent
- d) provide Health NZ with sufficient information to enable Health NZ to determine the extent of the Security Breach, including forensic information

- e) make all necessary personnel available to Health NZ to assist with the consequences and implications arising from the Security Breach
- f) provide timely information and all necessary assistance to Health NZ, as Health NZ may require, to fulfil its privacy breach reporting and notification obligations, including under the Privacy Act 2020
- g) keep Health NZ up to date about all material developments in connection with the Security Breach
- h) if Health NZ reasonably requests, assist Health NZ to undertake its own investigation
- i) except to the extent required by Law, not make any notifications to affected individuals and relevant government agencies in relation to a Security Breach without Health NZ's prior written agreement, and comply with any determination that Health NZ makes in relation to the party that is responsible for fulfilling the reporting and notification obligations under the Privacy Act 2020 and any other Laws.

B39 WAIVER

- B39.1 Any waiver by either Party must be in writing and duly signed. Each waiver may be relied on for the specific purpose for which it is given.
- B39.2 A failure of either Party to exercise, or a delay by either Party in exercising, any right given to it under the Agreement, does not mean that the right has been waived.

B40 RELATIONSHIP OF THE PARTIES

- B40.1 Nothing in the Agreement constitutes a partnership or joint venture between the Parties or makes the Provider an employee, agent or trustee of Health NZ.

B41 CONTRACTUAL PRIVACY

- B41.1 No third party may enforce any of the provisions in the Agreement.

B42 NOTICES

- B42.1 A Notice must be in writing and may be served personally, or sent by security, or registered mail, or by facsimile transmission, or by email. All Notices are to have endorsed on them the contract reference number given to the Agreement.
- B42.2 Notices given:
- a) personally, are served upon delivery
 - b) by post (other than airmail) are served three Business Days after posting
 - c) by airmail are served two Business Days after posting
 - d) by facsimile are served upon receipt of the correct answer back or receipt code
 - e) by email are served at the time the email enters the recipient's information system, and it is not returned undelivered or as an error.
- B42.3 A Notice received after Business Hours or on a day that is not a Business Day will be considered to be received on the next Business Day.
- B42.4 A Notice may be given by an authorised officer, employee or agent of the Party giving the Notice.
- B42.5 The address, facsimile number, and email, for each Party shall be as specified in the Agreement, or such other address, facsimile number, or email, as is from time to time notified in writing to the other Party.

B43 PARTIAL INVALIDITY

- B43.1 If any provision in the Agreement is lawfully illegal, unenforceable, or invalid, the determination will not affect the remainder of the Agreement which will remain in force.
- B43.2 This clause does not affect any right of termination Health NZ may have under the Agreement.

B44 GOVERNING LAW

B44.1 The Agreement is governed by New Zealand Law.

B45 CLAUSES THAT REMAIN IN FORCE

B45.1 The clauses that by their nature should remain in force on the termination of this Agreement do so, including this clause B45 (Clauses that Remain in Force), clauses B16 (Insurance), B17 (Health NZ's Liability), B18 (Indemnity), B24 (Intellectual Property), B28 (Public Statements, Issues and Advertising), B29 (Dispute Resolution), B31 (Termination for Convenience), B32 (Notice of Future Intentions), B33 (Health NZ's Right to Terminate the Agreement), B34 (The Provider's Right to Terminate the Agreement), B35 (Effect of Terminating the Agreement), B36 (Confidentiality), B42 (Notices), B46 (Counterparts), B47 (Definitions), B48 (Interpretation), and B49 (Glossary Terms).

B46 COUNTERPARTS

B46.1 This Agreement may be signed in any number of counterparts (including scanned and emailed copies). All counterparts, when taken together, will constitute one and the same agreement.

B46.2 A Party may enter into this Agreement by signing any counterpart.

GLOSSARY

B47 DEFINITIONS

B47.1 In the Agreement, terms given a meaning in the Glossary have that meaning where the context permits.

B47.2 In the Agreement

- a) **"Health NZ"** means Health New Zealand, a Crown agent established by s 11 of the Pae Ora (Healthy Futures) Act 2022, trading as Health New Zealand | Te Whatu Ora, and includes its permitted consultants, subcontractors, agents, employees and assignees (as the context permits).
- b) **"Provider"** means the Provider named in this Agreement, including its permitted subcontractors, agents, employees and assignees (as the context permits).
- c) **"Parties"** refers to the parties to this Agreement

B48 INTERPRETATION

B48.1 In this Agreement, unless the context requires otherwise:

- a) a reference to a person includes any other entity or association recognised by law and the reverse
- b) words referring to the singular include the plural and the reverse
- c) any reference to any of the Parties includes that Party's executors, administrators or permitted assigns, or if a company, its successors or permitted assigns or both
- d) everything expressed or implied in the Agreement which involves more than one person binds and benefits those people jointly and severally
- e) clause headings are for reference purposes only
- f) a reference to a statute includes:
 - i) all regulations under that statute
 - ii) all amendments to that statute
 - iii) any statute substituting for it which incorporates any of its provisions
- g) all periods of time or Notice exclude the days on which they are given and include the days on which they expire

- h) anything required by the Agreement to be done on a day which is not a Business Day may be done on the next Business Day.
- i) wherever the word “includes” (or similar words) is used, it is deemed to be followed by the words “without limitation”
- j) except as otherwise expressly stated, monetary references are references to New Zealand currency

B49 GLOSSARY TERMS

Expression	Meaning
Act	Pae Ora (Healthy Futures) Act 2022
Agreement	All documents included in Part 1 (referred to as the Head Agreement), together with Parts 2 and 3 (the documents and Service Schedules listed in clause A5 (Agreement Summary)).
Audit	Includes audit, assessment, inspection, investigation, evaluation or review of: <ul style="list-style-type: none"> • quality • Service delivery • claiming activity • performance requirements • organisational quality standards • information standards • organisational reporting requirements, business governance and financial management and solvency, including: <ul style="list-style-type: none"> ○ financial position ○ compliance with any of the Provider’s obligations in relation to the provision of the Services by the Provider or compliance with its obligations under the Agreement.
Author’s Rights	Those rights given to an author in Part IV of the Copyright Act 1994 (including rights to identification and restrictions on certain uses of the work).
Business Day	Any weekday in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year’s Day.
Business Hours	8:30 am to 5:00 pm on a Business Day, unless otherwise agreed to, in writing, by the Parties.
Civil Defence Emergency Management Group	A group established under section 12 of the Civil Defence Emergency Management Act 2002.
Commencement Date	The date the Agreement comes into effect.
Complaints Body	Any organisation appointed: <ul style="list-style-type: none"> • under the Agreement • by the Parties by mutual agreement • by a Health Professional Authority • by Law to deal with complaints relating to the Services.
Confidential Information	Information, including data and Personal Information, that: <ul style="list-style-type: none"> • is by its nature confidential • is marked by either Party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence' • is provided by either Party or a third party 'in confidence' • either Party knows or ought to know is confidential • excludes <ul style="list-style-type: none"> ○ the terms of the Agreement

	<ul style="list-style-type: none"> ○ matters considered by Health NZ (at its sole discretion) to be related to health and safety.
Conflict of Interest	Any interest (financial, professional or personal) that directly or indirectly is, or has the potential to be, or may be perceived to be, in conflict with the responsibilities or obligations under this Agreement of the person with the interest.
Consult	<p>Both Parties must:</p> <ul style="list-style-type: none"> • fully state their proposals and views to the other and carefully consider each response to them • act in good faith and not predetermine any matter • give the other adequate opportunity to consult any other interested party. <p>The obligation of either Party to Consult will be discharged if the other refuses or fails to Consult. “Consultation” has a corresponding meaning.</p>
Crown	The Sovereign in right of New Zealand.
Eligible Person	<p>Any individual who:</p> <ul style="list-style-type: none"> • needs the Services • belongs to a class of eligible people specified in regulations made under section 102 of the Act or is eligible under a ministerial direction, including any ministerial direction continued under clause 30 of Schedule 1 of the Act. <p>The Ministry of Health will determine if any individual is an Eligible Person if there is any dispute.</p>
Emergency Operations Centre	A facility operated by Health NZ that is used to manage the response to an emergency in terms of the National Civil Defence Emergency Management Plan Order 2015.
End Date	The date the Agreement ends in accordance with its terms.
Governmental Body	Includes any entity lawfully formed by, or in accordance with any direction of, the Crown or any Minister of the Crown or officer of the Crown.
GST	Goods and Services Tax under the Goods and Services Tax Act 1985.
H&DC Code	The Code of Health and Disability Services Consumers’ Rights made under the Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996.
H&S Standards	Health and safety standards developed by Standards New Zealand or another nationally accredited body, including information and guidance from WorkSafe New Zealand (including Health and Safety: A Good Practice Procurement Guide for Improving Health and Safety issued by the Government Health & Safety Lead), ISO 45001 (if applicable) and industry codes of practice and safety standards.
Health and Safety Legislation	Health and Safety at Work Act 2015, any regulations promulgated under that Act and all other applicable health and safety legislation.
Health Education Resources	Leaflets, posters, stickers, cards, manuals, resource kits, training kits, videos or other similar material (but excluding newsletters) which are about promoting health for general distribution or for people in a specified group provided for under this Agreement.
Health Information	<p>The information or classes of information about an identifiable individual, to which the Health Information Privacy Code 2020 applies, namely:</p> <ul style="list-style-type: none"> • information about the health of that individual, including their medical history • information about any disabilities that individual has, or has had

	<ul style="list-style-type: none"> • information about any health services or disability support services that are being provided, or have been provided, to that individual • information provided by that individual in connection with the donation, by that individual, of any body part or any bodily substance of that individual or derived from the testing or examination of any body part, or any bodily substance of that individual • information about that individual, which is collected before or during, and incidental to, the provision of any health service or disability support service to that individual.
Health NZ Information Sharing Schedule	A Health NZ-approved schedule that sets out the framework under which Health NZ may disclose and/or make available Personal Information or Health Information to the Provider in accordance with the Agreement.
Health NZ Property	Equipment, tools or other property owned or leased by Health NZ.
Health NZ Site	A site specified by Health NZ from time to time at which the Provider will provide the Services.
Health Professional Authority	Any authority or body that is empowered under and by virtue of any enactment of Law, or the rules of any body or organisation, to exercise disciplinary powers in respect of any person who is involved in the supply of health or disability services, or both.
HSW Act	Health and Safety at Work Act 2015.
Intellectual Property Rights	All industrial and intellectual property rights whether conferred by statute, at common law or in equity, including but not limited to copyrights, design rights, inventions, patents, trademarks, service marks, trade secrets, moral rights, know-how, and all other proprietary rights, whether registered or unregistered including applications for registration, and all equivalent rights or forms of protection of a similar nature anywhere in the world, together with all rights, interests, or licences in or to any of the foregoing.
Law	Includes: <ul style="list-style-type: none"> • any legislation, decree, judgement, order or by law • any rule, protocol, code of ethics or practice or conduct and other ethical or other standards, guidelines • requirements of any Health Professional Authority • any relevant standards of the New Zealand Standards Association • any future Law.
Minister	Minister of Health.
Minister of the Crown	A minister in the New Zealand Government.
Ministry of Health	Ministry of Health (by whatever name known) and any other successor department of state and includes the Minister and the Director-General of Health and any of their delegates.
New Intellectual Property Rights	Intellectual Property Rights arising under or directly in connection with the Agreement, or in the performance of the Services.
Notice	Communication from one Party to the other that meets the requirements of clause B42 (Notices).
PCBU	Person conducting a business or undertaking as defined in section 17 of the HSW Act.
Personal Information	Information about an identifiable individual, in the form of either: <ul style="list-style-type: none"> • information that by itself identifies an individual (such as a person's name)

	<ul style="list-style-type: none"> information that can identify an individual when combined with other reasonably available information where relevant, includes Health Information.
Population Served	Communities or targeted populations, including Eligible Persons, for whom Services are or may be provided.
Pre-Existing Intellectual Property	Intellectual Property Rights owned by a Party before the Commencement Date.
Privacy Breach	<ul style="list-style-type: none"> Unauthorised or accidental access to, or disclosure, alteration, loss, or destruction of, Personal Information. An action that prevents Health NZ from accessing Personal Information either temporarily or permanently. Includes whether it— <ul style="list-style-type: none"> was caused by a person inside or outside Health NZ is attributable in whole or in part to any action by Health NZ or is ongoing.
Privacy Laws	Includes the Privacy Act 2020, Health Information Privacy Code 2020, and any other applicable Law, statute, regulation, code or requirement imposed by the New Zealand Government.
Record	<p>Information, whether in its original form or otherwise, including a document, a signature, a seal, text, images, sound, speech, or data compiled, recorded, or stored:</p> <ul style="list-style-type: none"> in written form on any material on film, negative, tape, or other medium to be capable of being reproduced by means of any recording device or process, computer or other electronic device or process and includes all relevant records and information held by the Provider and its employees, subcontractors, agents and advisers.
Security Breach	<p>Any:</p> <ul style="list-style-type: none"> unauthorised or accidental access to or use of, or disclosure, alteration, loss, or destruction of Health NZ's Confidential Information (including Health NZ data) action that prevents Health NZ from accessing its Confidential Information (including Health NZ data) on either a temporary or permanent basis unauthorised use of or access to the Health NZ operating environment, or any use of the Health NZ operating environment other than in accordance with this Agreement or Health NZ's IT policies. <p>To avoid doubt, the term Security Breach includes any Privacy Breach.</p>
Services	Health services, or disability services or both as specified in the Agreement.
Service Users	Users of any of the Services.
Standard Conditions	The terms and conditions specified in Section B of the Agreement.
Uncontrollable Event	<p>An event that is beyond the reasonable control of a Party immediately affected by the event, or one or more of the events set out in clause B26.4. An Uncontrollable Event does not include:</p> <ul style="list-style-type: none"> any risk or event that the Party claiming could have prevented or overcome by taking reasonable care including having in place a realistic and reasonable risk management process a lack of funds for any reason.

Worker or Workers (only under clauses B21 (Ensuring Health and Safety) to B23 (Use of Health NZ Property and Sites))	Has the meaning defined in the HSW Act.
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SECTION C: PROVIDER QUALITY SPECIFICATIONS

INTRODUCTION

C1 QUALITY OF SERVICE

C1.1 These Provider Quality Specifications define the quality of service which Service Users and Populations Served under the terms of this Agreement will receive. Provider quality requirements will in final form be described in three key levels.

- a) Ngā Paerewa Health and Disability Services Standards (NZS 8134:2021)
- b) Provider Quality Specifications (PQS)
- c) Service Specific Quality Specifications (SSQS)

C2 HEALTH AND DISABILITY SERVICES STANDARD

C2.1 Ngā Paerewa Health and Disability Services Standard (NZS 8134:2021) provides the foundation for describing best practice and fostering continuous improvement in the quality of health and disability services. It sets out the rights of people and ensures service providers know their responsibilities for safe outcomes.

C3 PROVIDER QUALITY SPECIFICATIONS (PQS)

C3.1 All providers are required to meet these Provider Quality Specifications (PQS). The PQS have been developed to ensure a common basis for quality among providers of similar services nationally. They focus on key processes and outcomes. The PQS apply to all services provided under the terms of this Agreement.

C3.2 These PQS include:

- a) specifications for all providers (clauses C1 (Quality of Service) to C44 (Accessibility) inclusive)
- b) facility specifications only for providers who offer services to Service Users within premises (clauses C44 (Accessibility) and C45 (Maintained Facilities)).

C3.3 The PQS may be supplemented by Service Specific Quality Specifications (SSQS) or by specific quality requirements in Section F (Service Specification).

C4 AUDITING AND REPORTING

C4.1 Health NZ may, at any time, Audit the Provider's service against the Ngā Paerewa Health and Disability Services Standard (NZS 8134:2021) or against a PQS or SSQS by asking the Provider to demonstrate compliance with it. This is part of the Provider Quality Improvement Strategy, which may include regular, random and risk-based auditing of services. The PQS and SSQS are not, at present, subject to regular reporting unless required elsewhere in the Agreement or as part of any specified Quality Improvement initiative. The Provider is, however, invited to raise with Health NZ at any time any concerns it may have about its ability to meet these PQS so that corrective processes can be put in place.

PROVIDER QUALITY SPECIFICATIONS

C5 PQS APPLY TO ALL SERVICES

C5.1 The Provider will operate all Services covered in this Agreement according to these PQS. The Provider will implement these requirements in a manner that is appropriate for the Provider, considering:

- a) requirements of government Māori health policy and strategies
- b) identified needs of Service Users, carers and families
- c) service goals and objectives
- d) parameters of activities
- e) management of risks
- f) any good practice guidelines endorsed by Health NZ and by the Ministry of Health
- g) professional standards and codes relevant to the Service.

C6 WRITTEN POLICY, PROCEDURES, PROGRAMME, PROTOCOL, GUIDELINE, INFORMATION, SYSTEM OR PLAN

C6.1 Where, to meet a standard in Ngā Paerewa Health and Disability Services Standard (NZS 8134:2021) or an PQS or SSQS, the Provider needs to develop a written policy, procedure, programme, protocol, guideline, information, system or plan etc, the Provider will:

- a) develop such a document
- b) demonstrate systems for reviewing and updating all such documents regularly and as required by current performance or risks
- c) demonstrate implementation, through documentation supported as requested through interviews with staff, Service Users, and Māori
- d) demonstrate that staff are adequately informed of the content and the intent of these written documents
- e) provide Health NZ with a copy on request.

C7 ALL STAFF INFORMED

C7.1 The Provider will ensure that:

- a) these PQS are attached to each service specification contracted by Health NZ and delivered by the Provider
- b) employees and subcontractors are aware of the Provider's and their responsibilities for these PQS and relevant Service Specifications as they relate to services provided.

C8 REQUIREMENTS FOR MĀORI

C8.1 Requirements for Māori are specified here and elsewhere in this Agreement.

C8.2 The Services will meet the diverse needs of Māori and apply any strategy for Māori health issued by the Minister.

C9 MĀORI PARTICIPATION

C9.1 Māori participation will be integrated at all levels of strategic and service planning, development and implementation within the Provider's organisation at governance, management and service delivery levels. This will include:

- a) consultation with, and involvement of, Māori¹ in the Provider's strategic, operational and service processes
- b) development of a monitoring strategy in partnership with Māori that reviews and evaluates whether Māori needs are being met by the Provider, including:
 - i) removal of barriers to accessing the Provider's services
 - ii) facilitation of the involvement of whānau and others
 - iii) integration of Māori values and beliefs, and cultural practices
 - iv) availability of Māori staff to reflect the Service User population
 - v) existence, knowledge and use of referral protocols with Māori service providers in the Provider's locality
- c) education and training of staff in Māori values and beliefs and cultural practices, and in the requirements of any Māori Health Strategy
- d) support and development of a Māori workforce.

C9.2 The Provider will facilitate support from whānau/hapu/iwi, kuia/kaumatua, rongoa practitioners, spiritual advisors, Māori staff and others as appropriate for Māori accessing the Service.

QUALITY MANAGEMENT

The Provider is required to develop, document, implement and evaluate a transparent system for managing and improving the quality of services to achieve the best outcomes for Service Users.

C10 QUALITY PLAN

C10.1 The Provider will have a written, implemented and at least annually reviewed Quality Plan designed to improve outcomes for Service Users. This plan may be integrated into the Provider's business plan. It will describe how the Provider manages the risks associated with the provision of services. The plan will outline a clear quality strategy and will identify the organisational arrangements to implement it. The plan will be of a size and scope appropriate to the size of the service, and will at least include:

- a) an explicit quality philosophy
- b) clear quality objectives
- c) commitment to meeting these and any other relevant Quality Specification and Standards, and guidelines for good practice as appropriate
- d) quality improvement systems
- e) written and implemented systems for monitoring and auditing compliance with the Provider's contractual requirements
- f) designated organisational and staff responsibilities
- g) processes for and evidence of Service User input into services and into development of the Quality Plan
- h) processes for sound financial management
- i) how the Provider will address Māori issues including recognition of:
 - i) Māori participation with strategic, governance, management and service delivery planning, implementation and review functions
 - ii) Māori as a Government Health Gain priority area,

¹ Reference to "Māori" includes the development of a relationship with local tangata whenua and if appropriate, regional tangata whenua, Māori staff, Māori providers, and Māori community organisations to achieve the required Māori input.

- iii) the Pathways set out in any Māori Health Strategy issued by the Minister
- iv) Māori-specific quality specifications
- v) Māori-specific monitoring requirements
- vi) Māori service specific requirements.

C11 EMPLOYEES REGISTRATION, EDUCATION AND TRAINING

- C11.1 Employees will be, where relevant, registered with the appropriate statutory body, and will hold a current statutory certificate.
- C11.2 Employees will have access to continuing education to support maintenance of professional registration and enhancement of service delivery/clinical practice, and to ensure practice is safe and reflects knowledge of recent developments in service delivery.
- C11.3 The Provider's employment policies and practices will support professional career pathway development for Māori health workers, Māori service advisory positions, Māori change management positions, and the recruitment and retention of Māori employees at all levels of the organisation to reflect the Service User population.

C12 TRAINING AND SUPERVISION OF ASSISTANTS AND VOLUNTEERS

- C12.1 Assistants, volunteers and other relevant support employees will receive training to enable them to provide services safely and will work only under the supervision and direction of appropriately qualified staff.

C13 SUPERVISION OF TRAINEES

- C13.1 Trainees will be identified and will provide Services only under the supervision and direction of appropriately qualified staff.

C14 PERFORMANCE MANAGEMENT

- C14.1 The Provider will have in place a system of performance management for all employees.

C15 CLINICAL AUDIT

- C15.1 The Provider will have in place clinical audit/peer review processes that incorporate input from relevant health professionals from all services.

C16 ACCESS

- C16.1 All eligible people will have fair, reasonable and timely access to effective Services within the terms of this Agreement. The Provider will define and apply criteria for providing the Services, including any priority or eligibility criteria agreed between the Parties. The Provider will manage access to Services within available resources and according to those criteria. The Provider will maintain Records of people who receive Services and those who do not, and the criteria by which these decisions are made.

C17 SERVICE INFORMATION

- C17.1 Potential and current Service Users, and referrers, will have access to appropriately presented information for eligible people to access the Services. This information may be in the form of a brochure and will include at least:
- a) the Services the Provider offers
 - b) the location of those Services
 - c) the hours the Provider service is available
 - d) how to access the Services (e.g. whether a referral is required)

- e) Service User rights and responsibilities including a copy of the H&DC Code, and the Complaints Procedure
- f) availability of cultural support
- g) after hours or emergency contact if necessary or appropriate
- h) any other important information for people to access the Services.

This information will be presented in a manner appropriate to the communication needs of Service Users and communities.

C18 SUPPORT FOR MĀORI

C18.1 The Provider will facilitate support from whānau/hapu/iwi, kuia/kaumatua, rongoa practitioners, spiritual advisors, Māori staff and others as appropriate for Māori accessing the Service.

C19 CLINICAL GOVERNANCE

C19.1 The Provider must establish a clinical governance group that reports directly to its Board of Directors (or equivalent), unless Health NZ agrees otherwise. Where a group is established, its composition and structure must be appropriate to the Provider's type and size, and must:

- a) includes clinical members of the Board of Directors (or equivalent) where applicable
- b) ensure equitable representation of Māori and include priority populations
- c) be based in New Zealand
- d) include or have access to expertise across all Service components
- e) ensure the clinical safety of the Services
- f) monitor service effectiveness, performance and risk
- g) support effective service integration across the Services
- h) review, amend or approve current relevant service guidelines as appropriate
- i) approve new service guidelines as appropriate
- j) assess future service improvements to ensure clinical safety
- k) manage clinical incidents
- l) be established and operate at no additional cost to Health NZ.

ACCEPTABILITY

C20 SERVICE USER RIGHTS

C20.1 Each Service User will receive services in a manner that complies with the Health and Disability Commissioner Act 1994, and with all aspects of the H&DC Code. This will include provision for the:

- a) right to be treated with respect for person, privacy and culture
- b) freedom from discrimination, coercion, harassment, and exploitation
- c) right to dignity and independence
- d) right to services of an appropriate standard including legal, professional, ethical
- e) right to effective communication
- f) right to be fully informed
- g) right to make an informed choice and give informed consent
- h) right to support person present

- i) rights in respect of teaching or research
- j) right to complain.

C20.2 The Provider will make available and known to Service Users and visitors to the service the H&DC Code. The Provider will ensure staff are familiar with and observe their obligations under this Code.

C21 CULTURAL VALUES

C21.1 The Provider will deliver the Services in a culturally appropriate and competent manner, ensuring that the integrity of each Service User's culture is acknowledged and respected. The Provider will take account of the needs within the community served in order that there are no barriers to access or communication, and that the Services are safe for all people. The Provider will include significant local or service specific ethnic and other cultural groups in assessing satisfaction with the Services.

C21.2 The Provider will incorporate Māori principles/tikanga into its organisation. These may be explained in the following ways:

Wairua	Spirit or spirituality	A recognition that the Māori view of spirituality is inextricably related to the wellbeing of the Māori Service User.
Aroha	Compassionate love	The unconditional acceptance which is the heart of care and support.
Turangawaewae	A place to stand	The place the person calls home, where their origins are. Must be identified for all Māori Service Users.
Whanaungatanga	The extended family	Which takes responsibility for its members and must be informed of where its member is.
Tapu/Noa	Sacred/profane	The recognition of the cultural means of social control envisaged in tapu and noa including its implications for practices in working with Māori Service Users.
Mana	Authority, standing	Service must recognise the mana of Māori Service Users.
Manaaki	To care for and show respect to	Services show respect for Māori values, traditions and aspirations.
Kawa	Protocol of the marae, land, iwi	Determines how things are done in various circumstances. Respect for kawa is very important. If the kawa is not known the tangata whenua should be consulted.

C22 SERVICE USER ADVOCATES

C22.1 The Provider will inform Service Users and staff, in a manner appropriate to their communication needs, of their right to have an advocate, including to support the resolution of any complaint. The Provider will allow advocates reasonable access to facilities, Service Users, employees and information to enable them to carry out their role as an advocate. The Provider will know of and be able to facilitate access to a Māori advocate for Service Users who require this service.

C23 SERVICE USER/FAMILY/WHĀNAU AND REFERRER INPUT

C23.1 The Provider will regularly offer Service Users/families/whānau and referrers the opportunity to provide feedback as a means of improving the outcomes for Service Users. When obtaining feedback from Service Users by means of written surveys, the Provider will comply with the Ministry of Health Guidelines for Consumer Surveys. Service User input will be reflected in the maintenance and improvement of quality of service, both for the individual Service User and across the service. The Provider will actively seek feedback from Māori by appropriate methods to improve organisation responsiveness to Māori. When requested, the Provider will make available to Health NZ the results of such surveys.

C24 COMMUNITY INVOLVEMENT

C24.1 The Provider will have in place and follow active processes for consulting with the local community in matters affecting them such as service location and building programmes.

C25 COMPLAINTS PROCEDURE

C25.1 The Provider will enable Service Users/families/whānau and other people to make complaints through a written and implemented procedure for the identification and management of Complaints. This procedure will meet the H&DC Code requirements and will also ensure that:

- a) the complaints procedure itself is made known to and easily understandable by Service Users
- b) all parties have the right to be heard
- c) the person handling the complaint is impartial and acts fairly
- d) complaints are handled at the level appropriate to the complexity or gravity of the complaint
- e) any corrective action required following a complaint is undertaken
- f) it sets out the various complaints bodies to whom complaints may be made and the process for doing so. Service Users will further be advised of their right to direct their complaint to the Health & Disability Commissioner and any other relevant complaints body, particularly in the event of non-resolution of a complaint
- g) complaints are handled sensitively with due consideration of cultural or other values
- h) Māori Service Users and their whānau will have access to a Māori advocate to support them during the complaints process
- i) Service Users who complain, or on whose behalf families/whānau complain, shall continue to receive Services which meet all contractual requirements
- j) complaints are regularly monitored by the management of the service and trends identified to improve service delivery
- k) it is consistent with any complaints policy as Health NZ may notify from time to time.

C26 PERSONNEL IDENTIFICATION

C26.1 Employees, volunteers, students or subcontractors undertaking or observing service delivery will identify themselves to all Service Users and family/whānau.

C27 ETHICAL REVIEW

C27.1 If the Provider conducts research and innovative procedures or treatments, the Provider must have written and implemented policies and procedures for seeking ethical review and advice from a Health and Disability Ethics Committee in accordance with the current "National Standard for Ethics Committees" (or any replacement publication). The Provider will consult with and receive approval from Māori for any research or innovative procedures or treatments which will impact on Māori.

SAFETY AND EFFICIENCY

C28 GENERAL SAFETY OBLIGATION

C28.1 The Provider will protect Service Users, visitors and staff from exposure to avoidable/preventable risk and harm.

C29 RISK MANAGEMENT

C29.1 The Provider will have in place well developed processes for:

- a) identifying key risks including risks to health and safety
- b) evaluating and prioritising those risks based on their severity, the effectiveness of any controls the Provider has and the probability of occurrence
- c) dealing with those risks and where possible reducing them.

C30 EQUIPMENT MAINTAINED

C30.1 The Provider will ensure that equipment used is safe and maintained to comply with safety and use standards.

C31 INFECTION CONTROL/ENVIRONMENTAL AND HYGIENE MANAGEMENT

C31.1 The Provider will safeguard Service Users, staff and visitors from infection. The Provider will have written, implemented and regularly reviewed environmental and hygiene management/infection control policies and procedures which minimise the likelihood of adverse health outcomes arising from infection for Service Users, staff and visitors. These will meet any relevant profession-specific requirements and the requirements of the Standard Universal Precautions Guidelines. They will include definitions and will clearly outline the responsibilities of all employees, including immediate action, reporting, monitoring, corrective action, and staff training to meet these responsibilities.

C32 SECURITY

C32.1 The Provider will safeguard Service Users, employees and visitors from intrusion and associated risks. The Provider will have written, implemented and reviewed policies and practices relating to security to ensure that buildings, equipment and drugs are secure.

C33 MANAGEMENT OF INTERNAL EMERGENCIES AND EXTERNAL DISASTERS

C33.1 The Provider will have written, implemented and reviewed contingency management policies and procedures that minimise the adverse impact of internal emergencies and external or environmental disasters on Service Users, staff and visitors. The policies and procedures will include the processes for working with the organisations who have responsibility for coordinating internal and external (environmental) disaster services. These policies and procedures will be linked to the Provider's risk management processes.

C34 INCIDENT AND ACCIDENT MANAGEMENT

C34.1 The Provider will safeguard Service Users, staff and visitors from untoward risk arising from avoidable incidents, accidents and hazards. The Provider will have written, implemented and reviewed incident, accident and hazard management policies and procedures which assist in managing safety and risk. These will include definitions of incidents and accidents and will clearly outline the responsibilities of all employees, including:

- a) taking immediate action
- b) reporting, monitoring and corrective action to minimise incidents, accidents and hazards, and improve safety

- c) debriefing and staff support as necessary.

C35 PREVENTION OF ABUSE AND/OR NEGLECT

C35.1 The Provider will safeguard Service Users, staff and visitors from abuse, including physical, mental, emotional, financial and sexual maltreatment or neglect. The Provider will have written, implemented and reviewed policy and procedures on preventing, detecting and removing abuse and/or neglect. These will include definitions of abuse and neglect and will clearly outline the responsibilities of all staff who suspect actual or potential abuse, including immediate action, reporting, monitoring and corrective action. The Provider will ensure that relevant employees are able to participate in family, inter-agency or court proceedings to address specific cases of abuse and neglect. These procedures will also include reference to the Complaints Procedure.

EFFECTIVENESS

C36 ENTRY TO SERVICE

C36.1 The Provider will manage Service User entry to the Service in a timely, equitable and efficient manner, to meet assessed need.

C37 CHILDREN'S ACT 2014

C37.1 According to section 15 of the Children's Act 2014, children's services cover the following:

- a) Services provided to one or more children.
- b) Services to adults in respect of one or more children.²

C37.2 **Child Protection Policy:** If the Provider provides children's services as per section 15 of the Children's Act 2014 the Provider will adopt a child protection policy as soon as practicable and review the policy within three years from the date of its adoption or most recent review. Thereafter, the Provider will review the policy at least every three years. In accordance with the requirements set out in section 19(a) and (b) of the Children's Act 2014, the Provider's child protection policy must apply to the provision of children's services (as defined in section 15 of the Children's Act 2014), must be written and must contain provisions on the identification and reporting of child abuse and neglect in accordance with section 15 of the Oranga Tamariki Act 1989.

C37.3 **Worker Safety Checks:** If the Provider has workers that provide children's services, the safety check requirements under the Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015 will need to be complied with.

C38 PLAN OF CARE/SERVICE PLAN

C38.1 The Provider will develop for each Service User a written, up to date plan of care/service plan and/or record of treatment which:

- a) is based on assessment of his/her individual needs, including cultural needs
- b) includes consultation with the Service User
- c) where appropriate, and with the consent of the Service User, includes consultation with the Service User's family/whānau and/or caregivers
- d) contains detail appropriate to the impact of the service on the Service User
- e) facilitates the achievement of appropriate outcomes as defined with the Service User
- f) includes plans for discharge/transfer

² At a future date, the scope of children's services can be expanded by regulations. Expansion may include services to adults living in households that include one or more children and are services that could significantly affect the well-being of children in that household.

- g) provides for referral to and coordination with other medical services and links with community, iwi, Māori and other services as necessary.

C39 SERVICE PROVISION

C39.1 The Provider will deliver to Service Users services that meet their individual assessed needs, reflect current good practice, and are coordinated to minimise potentially harmful breaks in provision.

C40 PLANNING DISCHARGE FROM THE SERVICE OR TRANSFER BETWEEN SERVICES

C40.1 The Provider will collaborate with other services to ensure Service Users access all necessary services. When a Service User is transferred or discharged from the Services and accesses other appropriate services they will do so without avoidable delay or interruption. The Provider will have written, implemented and reviewed policies and procedures for planning discharge/exit/transfer from the Services. These will facilitate appropriate outcomes as defined with the Service User. The policies and procedures will include:

- a) defined employees' responsibilities for discharge planning
- b) incorporating discharge planning into the Service User's plan of care/service plan, where appropriate from or before admission
- c) full involvement of the Service User in planning discharge
- d) involvement of family/whānau, including advising them of discharge, as appropriate
- e) assessment and management of any risks associated with the discharge
- f) informing the Service User on their condition, possible future course of this, any risks, emergency contacts, and how to access future treatment, care or support services
- g) where appropriate involving the original referrer and the health professional having ongoing responsibility for the Service User in planning discharge and informing them of confirmed discharge arrangements
- h) a process for monitoring that discharge planning does take place, which includes assessment of the effectiveness of the discharge planning programme.

C41 WHERE SERVICES ARE DECLINED

C41.1 The Provider will have written and implemented policies and procedures to manage the immediate safety of the Service User for whom entry to the service is declined and, where necessary the safety of their immediate family/whānau and the wider community. These include:

- a) applying agreed criteria for providing services
- b) ensuring all diagnostic steps have been taken to identify serious problems which may require the Provider's service
- c) advising the Service User and/or their family/whānau of appropriate alternative services
- d) where appropriate, advising the family/whānau or other current services that the Provider has declined services
- e) recording that entry has been declined, giving reasons and other relevant information
- f) having in place processes for providing this information to Health NZ.

C42 DEATH/TANGIHANGA

C42.1 The Provider will have written and implemented policies and procedures to follow in the event of a death including:

- a) immediate action including first aid, calling appropriate emergency services
- b) appropriate and culturally sensitive procedures for notification of next of kin

- c) any necessary certification and documentation including notifying Health NZ or the Ministry of Health if required in the Service Specifications
- d) appropriate and culturally competent arrangements, particularly to meet the special needs of Māori, are considered in the care of the deceased, until responsibility is accepted by the family or a duly authorised person.

C43 HEALTH EDUCATION, DISEASE PREVENTION AND HEALTH ADVICE/COUNSELLING

C43.1 The Provider will incorporate within the Services, where appropriate, an emphasis on health education, disease prevention and health advice/counselling, and support the goals of the Ministry of Health Strategy "Strengthening Public Health Action" June 1997 or subsequent publications.

FACILITIES

C44 ACCESSIBILITY

C44.1 The Provider will support Service Users in accessing the Services by the physical design of the Provider's facilities. The Provider will make specific provision for Service Users with a mobility, sensory or communication disability available and known to Service User. The Provider will make Services available to deaf people through the provision of interpreters and devices to assist communication.

C45 MAINTAINED FACILITIES

C45.1 The Provider will provide services from safe, well-designed, well-equipped, hygienic and well- maintained premises.

SECTION D: STANDARD INFORMATION SPECIFICATIONS

REPORTING REQUIREMENTS

D1 RECORD KEEPING, INFORMATION AND REPORTS

D1.1 The Provider must:

- a) retain sufficient Records to confirm delivery of Services required under this Agreement, in a form that is legible, accessible and structured to enable Health NZ to easily Audit, identify and report on the performance of Services in accordance with the requirements of the Agreement
- b) ensure that it obtains any authorisation necessary to comply with the Provider's obligations to share information with Health NZ under this Agreement, including Personal Information at the point of collection
- c) comply with the information requirements set out in the Agreement
- d) keep and preserve Records and protect the security of them and make them available to Health NZ in accordance with Health NZ's reasonable instructions (including timeliness, content and format, including electronic, if requested)
- e) take all due care to ensure that in the event of the Provider ceasing to provide the Services, the Records are properly preserved and transferred to Health NZ
- f) keep proper business Records and promptly complete a balance sheet, statement of income and expenditure and cashflows in accordance with accepted accountancy principles at the end of each financial year
- g) report to Health NZ in accordance with Health NZ's reasonable instructions.

D1.2 Health NZ may use any information concerning the Provider:

- a) for Health NZ's own purposes
- b) for any purposes required by any Minister of the Crown or any Governmental Body.

D1.3 Health NZ may reasonably require the Provider to send reports directly to any Minister of the Crown or any Governmental Body within a time reasonably fixed by Health NZ.

D2 INFORMATION TO BE REPORTED

D2.1 Unless stated otherwise in a Service Schedule, information to be provided to Health NZ is to be provided at three monthly intervals in accordance with the timetable below. Where the Agreement begins or ends (or is terminated) part way through a quarter, the report will be for that part of the quarter which falls within the term of the Agreement.

D2.2 Any delays will be notified to the Performance Reporting Team (see below for details).

D3 REPORTING REQUIREMENT TIMETABLE

Quarters for Reporting	Due Date
1 January to 31 March	20 April
1 April to 30 June	20 July
1 July to 30 September	20 October
1 October to 31 December	20 January

D4 FORWARDING YOUR COMPLETED REPORT

You shall forward your completed Performance Monitoring Returns to:

Email: performance_reporting@health.govt.nz or post to:

Health New Zealand | Te Whatu Ora Sector Services

Private Bag 1942

Dunedin 9054

PART 3: SERVICE SCHEDULES

This Part 3 contains each of the Service Schedules listed in the Head Agreement (at clause A5 (Agreement Summary)).

Each of the Service Schedules in Part 3 form part of the Agreement between the Parties as defined in the Head Agreement or in a subsequent variation to the Head Agreement, as applicable.

Each Service Schedule contains the Service Specifications and Provider-specific Terms and Conditions associated with the Service.

The Service Specification describes the Service and sets up quality and information reporting requirements additional to those specified in Part 2 (General Terms). Note that nationally standard service descriptions may contain details (particularly purchase units and reporting requirements) which do not apply to all agreements.

The Provider-specific Terms and Conditions detail those elements of the Agreement that are unique to the Provider. This will include payment terms, the term of the Service Schedule, and any details which differ from Part 2 (General Terms) and/or standard Service Specification/s (including detailed clarification of any parts of the nationally standard service description which do not apply to this Agreement, and a full list of relevant purchase units, volumes, prices and reporting requirements).

SECTION E: PROVIDER-SPECIFIC TERMS AND CONDITIONS

INTRODUCTION

E1 SERVICE DETAILS

E1.1 It is agreed that the following details apply to this Service Schedule.

Legal Entity Name	<_MAIN_CONTRACTOR_companyName/>
Provider Number	<_MAIN_CONTRACTOR_companyExtUniqueCode/>
Contract Number	<_CONTRACT_CODE/>
Contract Commencement Date	<_START_DATE_DATE/>
Contract End Date	<_END_DATE_DATE/>

E2 STANDARD DOCUMENTATION

E2.1 It is agreed that the Service Schedule includes the standard documentation in Part 2 (General Terms), and the standard service specifications included in this Service Schedule, as amended by any changes (if any) identified below.

E2.2 Subject to compliance with this Agreement, it is agreed that the Services will be paid for in accordance with the details given in the Payment Details below.

PAYMENT DETAILS

E3 PRICE – PAID BY INVOICE

E3.1 The total price Health NZ will pay for the Service the Provider will provide from the Contract Commencement Date until the Contract End Date is up to the amount specified in the annexure (GST excluded).

E3.2 Health NZ will pay the Provider for the Services the Provider provides in each invoice period so long as Health NZ receives a valid GST tax invoice from the Provider. The invoice must meet all legal requirements and must contain the following information:

- a) provider name (legal entity name)
- b) provider number (legal entity number)
- c) provider invoice number
- d) contract number
- e) purchase unit number or a description of the service being provided
- f) date the invoice is due to be paid/date payment expected
- g) dollar amount to be paid
- h) period the service was provided
- i) volume, if applicable

- j) GST rate
- k) GST number
- l) purchase order number.

E3.3 The Provider must submit a valid GST tax invoice at the end of each service period for the Services provided during that service period. If Health NZ receives a valid tax invoice:

- a) on or before the fifth day after the end of the service period, the invoice should be dated the last day of the service period, unless an alternative date is stated in the Service Specifications. The Provider will be paid 14 days from date of invoice.

E3.4 Invoicing Address

Send invoices to:
providerinvoices@health.govt.nz
or post to:
Health New Zealand | Te Whatu Ora
Provider Payments
Private Bag 1942
Dunedin 9054

E4 PRICE – SCHEDULED PAYMENTS

E4.1 The total price Health NZ will pay for the Services the Provider will provide from the Contract Commencement Date until the Contract End Date is outlined in the Annexure.

E4.2 The total price will be paid to the Provider in accordance with the payment schedule.

E4.3 If the Contract Commencement Date occurs part way through a month, the first and last instalments will be prorated to reflect the number of days that the Services were provided in those relevant months.

E4.4 All prices are exclusive of GST.

E5 GEOGRAPHICAL AREA

E5.1 Unless specified in the Service Specification, the Provider will provide the Services across Aotearoa New Zealand.

E6 GEOGRAPHICAL AREA - DISTRICTS

E6.1 The Provider may only provide the Services in the geographical area that <_DATA_ELEMENT_HNZ_Geographical_Districts/> previously represented as specified in Schedule 1 of the repealed New Zealand Public Health and Disability Act 2000.

E7 GEOGRAPHICAL AREA - REGIONS

E7.1 The Provider may only provide the Services in the following region/s:
<_DATA_ELEMENT_HNZ_Geographical_Area_Regions/>

E8 GEOGRAPHICAL AREA - LOCALITIES

E8.1 The Provider may only provide the Services in the following localities/s:
<_DATA_ELEMENT_HNZ_Geographical_Localities/>

SECTION F: SERVICE SPECIFICATION

SERVICE FRAMEWORK

F1 NATIONWIDE SERVICE SPECIFICATION

F1.1 The Provider agrees to provide the Services in accordance with the following specification (s), which are organised by service group for download at: <https://www.tewhātuora.govt.nz/health-services-and-programmes/nationwide-service-framework-library/about-nationwide-service-specifications>

- a) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_1/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_1/>
- b) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_2/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_2/>
- c) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_3/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_3/>
- d) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_4/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_4/>
- e) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_5/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_5/>
- f) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_6/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_6/>
- g) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_7/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_7/>
- h) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_8/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_8/>
- i) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_9/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_9/>
- j) <_DATA_ELEMENT_HNZ_NSF_Schedule Name_10/>, published
<_DATA_ELEMENT_HNZ_NSF_Publishing Date_10/>

F2 SERVICE SPECIFICATION

F2.1 In addition to the Services outlined above, the Provider also agrees to provide the following Services